

HOUSE No. 4277

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Christine E. Canavan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act protecting tenants from unjustified evictions on foreclosed properties in the city of
Brockton.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Christine E. Canavan	10th Plymouth
Geraldine Creedon	11th Plymouth
Michael Brady	9th Plymouth
Thomas P. Kennedy	Second Plymouth and Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act protecting tenants from unjustified evictions on foreclosed properties in the city of Brockton.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. As used in this act, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Entity", a business organization, or any other kind of organization, including without limitation, a corporation, partnership, trust, limited liability corporation, limited liability partnership, joint venture, sole proprietorship, or any other category of organization, and any employee, agent, servant or other representative of such entity.

"Eviction", any action, without limitation, by a foreclosing owner of a housing accommodation which is intended to compel a tenant or former owner-occupant, now tenant at sufferance, to vacate or to be constructively evicted from such housing accommodation.

"Foreclosing owner", an entity that holds title, in any capacity, directly or indirectly, without limitation, whether in its own name, as trustee, or as beneficiary, to a housing accommodation that has been foreclosed upon, and either (1) held or owned a mortgage or other security interest in the housing accommodation at any point prior to the foreclosure of the housing accommodation or is the subsidiary, parent, trustee, or agent of, or otherwise is related to any entity which held or owned the mortgage or other security interest in the housing accommodation at any time prior to the foreclosure of the housing accommodation; or (2) is an institutional mortgagee that acquires or holds title to the housing accommodation within 3 years of the filing of a foreclosure deed on the housing accommodation.

"Foreclosure", a legal proceeding to terminate a mortgagor's interest in property, instituted by the mortgagee, either to gain title or to force a sale in order to satisfy the unpaid debt secured by the property, including, without limitation, foreclosure by action, by bill in equity, by entry and continuation of possession for three years, and by sale under the power of sale in a mortgage as described in chapter 244 of the General Laws.

"Housing accommodation", any building or buildings, structure or structures, or part thereof or land appurtenant thereto, or any other real or personal property used, rented or offered for rent for living or dwelling purposes, together with all services connected with the use or occupancy of such property.

"Institutional mortgagee", any entity that holds or owns mortgages or other security interest in 3 or more properties in the city of Brockton or is the subsidiary, parent, or agent of, or otherwise related to any entity which holds or owns mortgages or other security interests in 3 or more properties in the city of Brockton or acts as a mortgage servicer of three or more mortgages of properties in the city of Brockton.

"Just cause", shall be at least one of the following:

(a) the tenant has failed to pay a reasonable rent to the foreclosing owner, but only if the foreclosing owner notified the tenant in writing of the amount of such reasonable rent and to whom it was to be paid;

(b) the tenant or occupant has violated an obligation or covenant of the tenancy or occupancy other than the obligation to surrender possession upon proper notice and has failed to cure such violation within a reasonable time after having received written notice thereof from the foreclosing owner;

(c) the tenant or occupant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the unit, or is creating a substantial interference with the quiet enjoyment of other occupants;

(d) the tenant or occupant is convicted of using or permitting the unit to be used for any illegal purpose;

(e) the tenant or occupant who had a written lease or other rental agreement which terminated on or after this act has taken effect, has refused, after written request or demand by the foreclosing owner to execute a written extension or renewal thereof for a further term of like duration and in such terms that are not inconsistent with or in violation of any provisions of this act;

(f) the tenant or occupant has refused the foreclosing owner reasonable access to the unit for the purpose of making necessary repairs or improvement required by the laws of the United States, the commonwealth of Massachusetts or the city of Brockton or for the purpose of inspection as permitted or required by agreement or by law or for the purpose of showing the rental housing unit to a prospective purchaser or mortgagee; or

(g) a binding purchase and sale contract with a purchaser who intends to occupy the housing accommodation as such purchaser's principal residence and who is not a foreclosing owner, where such agreement requires the housing accommodation or some portion thereof to be conveyed vacant.

"Mortgagee", an entity to whom property is mortgaged; the mortgage creditor, or lender, including; but not limited to, mortgage servicers, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

"Mortgage servicer", an entity which administers or at any point administered the mortgage, including, but not limited to, calculating principal and interest, collecting payments from the mortgagor, acting as an escrow agent, and foreclosing in the event of a default.

'Reasonable rent', for a tenant shall be the amount paid by such tenant immediately prior to the foreclosure as demonstrated by a lease, a rental agreement or other evidence of agreed-upon rent or rental payments. Reasonable rent for a former owner-occupant shall be the Fair Market Rent as established by the United States Department of Housing and Urban Development pursuant to 42 D.S.C. c § 1437f(0), as it exists or may be amended, for a unit of comparable size in the Plymouth county area.

“Tenant”, any person or persons who at the time of foreclosure is entitled to occupy a housing accommodation pursuant to a written lease, tenancy at will, or tenancy at sufferance including a former owner-occupant who held legal title to a housing accommodation who held legal title to a housing accommodation immediately prior to a foreclosure of such housing accommodation and who individually or with other legal occupants remains in possession of such housing accommodation after foreclosure. Any person other than a legal dependent or spouse of the person or group of persons entitled to occupy the housing accommodation at the time of the foreclosure that moves into the housing accommodation owned by the foreclosing owner following the filing of the foreclosure deed without the express written permission of the owner shall not be considered a tenant under this statute.

"Unit" or "residential unit", the room or group of rooms within a housing accommodation which is used or intended for use as a residence by one household.

SECTION 2. Notwithstanding any general or special law, rule or regulation to the contrary, the foreclosing owner shall not evict a tenant except for just cause.

SECTION 3. Any foreclosing owner that evicts a tenant in violation of any provisions of this act, or any ordinance or by-law adopted pursuant to this act, shall be punished by a fine of not less than \$10,000 dollars. Each eviction done in violation of this act constitutes a separate offense.

The district and superior courts, and the, housing courts serving the city of Brockton, shall have jurisdiction over an action arising from any violation of this act, or any ordinance adopted pursuant to this act, and shall have jurisdiction in equity to restrain any such violation. No tenant shall be evicted in violation of any provision of this act or any ordinance adopted pursuant to this act. , It shall be a defense to eviction that the foreclosing owner attempted to evict tenants in violation of any provision of this act or any ordinance adopted pursuant to this act.

SECTION 4. This act shall take effect upon its passage.

SECTION 5. This act shall cease to be in effect on December 31, 2013.